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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/661,848
Filing Date: September 12, 2003
Appellant(s): MOEHLENBROCK ET AL.

Donald M. Hill, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 10, 2007 appealing from the Office action mailed December 28, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. The text that was added to claims 1, 10 and 14 in the after final amendment filed April 12, 2006 (that was not entered in the Advisory Action mailed April 26, 2006) was included in the amendment filed July 13, 2006 (which was entered due to Applicant's filing of a request for continued examination under 37 CFR 1.114 subsequent to the mailing of the Advisory Action).

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

US Pat. No. 6,114,024	FORTE	09-2000
US Pat. No. 4,910,032	ANTOON	03-1990
US Pat. No. 6,111,163	MCCORMACK et al.	08-2000
US Pat. No. 5,358,785	AKAO et al.	10-1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 and 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forte (USPN 6,114,024) in view of Antoon, Jr. (USPN 4,910,032) (and as evidenced by USPN

6,111,163 to McCormack et al., and in regard to claims 3 and 4, as also evidenced by USPN 5,358,785 to Akao et al.).

In regard to claims 1 and 14, Forte teaches a water vapor permeable, and oxygen-permeable, multilayer film (col. 1, lines 9-27 and col. 3, lines 24-28 and 39-47) comprising a first outer layer (one of the C layers), a second outer layer (the other C layer) and an intermediate microporous layer (the B layer) disposed between the first and second outer layers (col. 3, lines 24-47). The first outer layer, the second outer layer and the intermediate microporous layer of Forte are oxygen-permeable because these layers are layers of the oxygen-permeable multilayer film of Forte (col. 1, lines 9-27 and col. 3, lines 24-47). The first and second outer layers are heat sealable since the first and second outer layers are independently formed from a heat sealable composition because thermoplastic materials fall within the scope of the teaching of Forte of suitable materials for the first and second outer layers at col. 6, lines 46-47, 55-57 and 60-67 and because the first and second outer layers are formed by heating the unmelted solid of the suitable material, extruding the heated material and cooling the extrudate to form the final product (col. 10, line 18-col. 11, line 44) (the suitable materials for the first and second outer layers are heat sealable because the materials are heated, extruded and cooled to form the multilayer film, thus sealing the intermediate microporous layer). The first and second outer layers are independently formed from a heat sealable composition comprising polyolefin in an amount of 37 wt. % (Exxon 357C80, Tables 8 and 9 under the heading "EXTRUDER "C"" in col. 17 of Forte and col. 3, lines 24-47: Exxon 357C80 is a metallocene-catalyzed (ethylene 1-butene) copolymer as evidenced by USPN 6,111,163 to McCormack et al. at col. 13, lines 40-45; (ethylene 1-butene) copolymer is a polyolefin.

Forte fail to explicitly teach that the intermediate microporous layer is formed from an oxygen impermeable composition and that the intermediate microporous layer is free of particulate filler.

Antoon, Jr., however, disclose a container comprising a film that is substantially impermeable to oxygen and highly permeable to water vapor (col. 1, line 64-col. 2, line 7 and col. 2, lines 21-26 and 31-37). Antoon, Jr., discloses that the silicone-coated microporous film is free of particulate filler (col. 3, lines 14-17). The microporous film of Antoon, Jr. is oxygen-permeable because Antoon, Jr. teach that the microporous film is substantially oxygen impermeable (col. 2, lines 22-37: a substantially oxygen impermeable film has some degree of permeability to oxygen and is therefore oxygen-permeable). Antoon, Jr. discloses that silicone-coated microporous films are suitable films for the film that is substantially impermeable to oxygen and highly permeable to water vapor (col. 3, lines 14-17). Therefore, one of ordinary skill in the art would have recognized to have used a silicone-coated microporous film such as the silicone-coated microporous film of Antoon, Jr. as the intermediate microporous layer of Forte since silicone-coated microporous film (that is free of particulate filler) is well known to be a water vapor permeable microporous film as taught by Antoon, Jr.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a silicone-coated microporous film such as the silicone-coated microporous film of Antoon, Jr. as the intermediate microporous layer of Forte since silicone-coated microporous film (that is free of particulate filler) is well known to be a water vapor permeable microporous film as taught by Antoon, Jr.

In further regard to claim 14, while Forte teach that an application for the film is food packaging (col. 1, lines 34-37), Forte fails to explicitly teach a package comprising the multilayer film as discussed above that comprises an oxygen sensitive product.

Antoon, Jr., however, discloses a package comprising an oxygen sensitive product (col. 1, lines 64-67) comprising a film that is substantially impermeable to oxygen and highly permeable to water vapor (col. 2, lines 21-26 and 31-37). Therefore, one of ordinary skill in the art would have recognized to have formed a package out of the film taught by Forte and Antoon, Jr. as discussed above, and to have stored an oxygen sensitive product in the package as taught by Antoon, Jr. since it is well known to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed a package out of the film taught by Forte and Antoon, Jr. as discussed above, and to have stored an oxygen sensitive product in the package as taught by Antoon, Jr. since it is well known to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 2, Forte teach that polyesters and polyamides are suitable materials for the outer layers (col. 6, lines 45-47 and 55-56). While Forte and Antoon, Jr. fail to explicitly teach that the heat sealable composition exhibits an oxygen transmission rate that is higher than that of the oxygen impermeable composition by the claimed amount, Antoon, Jr. teach an oxygen permeable layer formed of polyester (PET or PBT) or polyamide (nylon) (col. 4, lines 1-

4) where the oxygen permeability of the oxygen permeable layer is between 5,000 and 10,000,000 cc/100 in^2-atm-day (col. 2, lines 37-40). Since Antoon, Jr. teaches that the oxygen permeability of the oxygen permeable layer is between 5,000 and 10,000,000 cc/100 in^2-atm-day, it follows that the oxygen permeability of the oxygen impermeable layer is less than 5,000 cc/100 in^2-atm-day. Therefore, one of ordinary skill in the art would have recognized to have used a film having an oxygen permeability that is at least 50 cc-mil/100 in^2-atm-day higher than that of the oxygen impermeable layer of the film taught by Forte and Antoon, Jr. for use as the heat sealable layer of the film taught by Forte and Antoon, Jr. since it is well known to use films having an oxygen permeability of between 5,000 and 10,000,000 cc/100 in^2-atm-day as a heat sealable layer formed of polyester or polyamide as taught by Antoon, Jr. Note that selection of a film having an oxygen permeability of 5,050 cc/100 in^2-atm-day or greater guarantees that the film has an oxygen permeability of at least 50 cc-mil/100 in^2-atm-day higher than that of an oxygen impermeable layer as taught by Antoon, Jr.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a film having an oxygen permeability that is at least 50 cc-mil/100 in^2-atm-day higher than that of the oxygen impermeable layer of the film taught by Forte and Antoon, Jr. for use as the heat sealable layer of the film taught by Forte and Antoon, Jr. since it is well known to use films having an oxygen permeability of between 5,000 and 10,000,000 cc/100 in^2-atm-day as a heat sealable layer formed of polyester or polyamide as taught by Antoon, Jr.

In regard to claims 3 and 4, in the instance where the heat sealable composition is polypropylene as taught by Forte at col. 5, lines 19-24 and where the oxygen impermeable composition is cellophane as taught by Antoon, Jr. at col. 3, lines 14-17, the melting point of the

oxygen impermeable composition is 10°C higher than that of the heat sealable composition as evidenced by USPN 5,358,785 to Akao et al. at col. 16, lines 32 and 41, and the modulus of the oxygen impermeable composition is about 70,000 psi higher than that of the heat sealable composition as evidenced by US 5,358,785 to Akao et al. at col. 16, lines 32 and 41 (90 kg force/mm^2 is about 130,000 psi and 140 kg force/mm^2 is about 200,000 psi).

In regard to claim 5, Antoon, Jr. teaches that all of the polymers claimed in claim 5, except for polyesters, are suitable materials for the intermediate microporous layer (col. 3, line 57-col. 4, line 17; ethylene-co-propylene is a propylene/alpha-olefin copolymer and an ethylene/alpha-olefin copolymer, col. 3, lines 64-65, vinyl acetate is an ethylene/unsaturated ester copolymer, col. 4, lines 4-5). Therefore, it would have been obvious at the time the invention was made to use the material used in Antoon, Jr. in the intermediate microporous layer of the film taught by Forte and Antoon, Jr. because it is well known to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 6, Antoon, Jr. teaches that ethylene-co-propylene, which is a polypropylene/alpha-olefin copolymer, is a suitable material for the intermediate microporous layer (col. 3, lines 64-65). Therefore, it would have been obvious at the time the invention was made to use the material used in Antoon, Jr. in the intermediate microporous layer of the film taught by Forte and Antoon, Jr. because it is well known to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 8, Forte discloses the use of a metallocene-catalyzed (ethylene 1-butene) copolymer (col. 5, lines 11-13, Exxon 357C80 as evidenced by USPN 6,111,163 to McCormack et al. at col. 13, lines 40-45) is an ethylene/alpha olefin copolymer.

In regard to claim 9, Forte teaches that the heat sealable composition of the outer layers comprises linear low density polyethylene (col. 7, lines 1-18).

In regard to claim 15, Antoon, Jr. teach that the film completely encloses the oxygen-sensitive product (col. 12, lines 52-54), so it would have been obvious to one of ordinary skill in the art at the time the invention was made to have completely enclosed the oxygen-sensitive product with the film taught by Forte and Antoon, Jr. since it is well known to completely enclose an oxygen-sensitive product with an oxygen impermeable film to store and protect the product as taught by Antoon, Jr. Therefore, it would have been obvious at the time the invention was made to use the material used in Antoon, Jr. in Forte because to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 16, Antoon, Jr. teach that the oxygen-sensitive product is a fruit or a vegetable (col. 1, lines 64-68). Therefore, it would have been obvious to one of ordinary skill in the art that the combination package of Forte and Antoon, Jr. would have been used as a container for a fruit or vegetable because both references disclose that the containers can be used with food stuffs and Antoon, Jr, discloses that the produce is prevented from drying out or becoming slimy (col. 13, lines 11-13).

In regard to claim 17, Antoon, Jr. teach that the multilayer film is lidding stock (col. 5, lines 42-44). Therefore, it would have been obvious at the time the invention was made to use

the lidding stock in Antoon, Jr. in Forte because to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 10, Forte teaches a water vapor permeable, and oxygen-permeable999 multilayer film (col. 1, lines 9-27 and col. 3, lines 24-28 and 39-47) comprising a first outer layer (one of the C layers), a second outer layer (the other C layer), a center layer (the B layer), a first intermediate microporous layer (one of the A layers) disposed between the first outer layer and the center layer and a second intermediate microporous layer (the other A layer) disposed between the second outer layer and the center layer (col. 3, lines 24-47). The first outer layer, the second outer layer, the center layer and the intermediate microporous layer of Forte are oxygen-permeable because these layers are layers of the oxygen-permeable multilayer film of Forte (col. 1, lines 9-27 and col. 3, lines 24-47). The first and second outer layers are heat sealable since the first and second outer layers are independently formed from a heat sealable composition because thermoplastic materials fall within the scope of the teaching of Forte of suitable materials for the first and second outer layers at col. 6, lines 46-47, 55-57 and 60-67 and because the first and second outer layers are formed by heating the unmelted solid of the suitable material, extruding the heated material and cooling the extrudate to form the final product (col. 10, line 18-col. 11, line 44) (the suitable materials for the first and second outer layers are heat sealable because the materials are heated, extruded and cooled to form the multilayer film, thus sealing the intermediate microporous layer). The first and second outer layers independently comprise a heat sealable composition comprising polyolefin in an amount of 37 wt. % (Exxon 357C80, Tables 8 and 9 under the heading "EXTRUDER "C"" in col. 17 of Forte and col. 3, lines 24-47: Exxon

357C80 is a metallocene-catalyzed (ethylene 1-butene) copolymer as evidenced by USPN 6,111,163 to McCormack et al. at col. 13, lines 40-45; (ethylene 1-butene) copolymer is a polyolefin. The center layer independently comprises a heat sealable composition comprising polyolefin in an amount of 20 wt. % (Exxon 357C80, Tables 8 and 9 under the heading "EXTRUDER "B"" in col. 17 of Forte and col. 3, lines 24-47).

Forte teaches that the intermediate microporous layers must allow water vapor to pass through (col. 7, lines 40-42).

Forte fails to explicitly teach that the intermediate microporous layers each independently comprise an oxygen impermeable composition and that each intermediate microporous layer is free of particulate filler.

Antoon, Jr., however, discloses a container comprising a film that is substantially impermeable to oxygen and highly permeable to water vapor (col. 1, line 64-col. 2, line 7 and col. 2, lines 21-26 and 31-37). Antoon, Jr., discloses that the silicone-coated microporous film is free of particulate filler (col. 3, lines 14-17). Antoon, Jr. discloses that silicone-coated microporous films are suitable films for the film that is substantially impermeable to oxygen and highly permeable to water vapor (col. 3, lines 14-17). Therefore, one of ordinary skill in the art would have recognized to have used silicone-coated microporous films such as the silicone-coated microporous film of Antoon, Jr. as the first and second intermediate microporous layers of Forte since silicone-coated microporous film (that is free of particulate filler) is well known to be a water vapor permeable microporous film as taught by Antoon, Jr.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used silicone-coated microporous films such as the silicone-coated

microporous film of Antoon, Jr. as the first and second intermediate microporous layers of Forte since silicone-coated microporous film (that is free of particulate filler) is well known to be a water vapor permeable microporous film as taught by Antoon, Jr.

In regard to claim 11, Antoon, Jr. teaches that ethylene-co-propylene, which is a polypropylene/alpha-olefin copolymer (and an ethylene/alpha-olefin copolymer), is a suitable material for the intermediate microporous layer (col. 3, lines 64-65). Therefore, it would have been obvious at the time the invention was made to use the material used in Antoon, Jr. in the intermediate microporous layer of the film taught by Forte and Antoon, Jr. because it is well known to form packages from a film that is substantially impermeable to oxygen and highly permeable to water vapor to store and protect an oxygen sensitive product as taught by Antoon, Jr.

In regard to claim 12, Forte teaches a metallocene-catalyzed (ethylene 1-butene) copolymer (col. 5, lines 28-30, Exxon 357C80 as evidenced by USPN 6,111,163 to McCormack et al. at col. 13, lines 40-45) is an ethylene/alpha olefin copolymer.

In regard to claim 13, Forte teaches that the heat sealable composition of the outer layers comprises linear low density polyethylene (col. 7, lines 1-18).

(10) Response to Argument

Appellant's arguments presented on pages 4-10 of the Brief regarding the 35 U.S.C. 103 rejection of claims 1-6 and 8-17 have been fully considered but are not persuasive.

As a preliminary matter, Examiner notes that claims 1 and 14 recite that the intermediate microporous layer is "oxygen-permeable" and that it is "formed from an oxygen impermeable composition". The B layer of Forte (that corresponds to the claimed intermediate microporous

layer except for the failure of Forte to explicitly teach that the intermediate microporous layer is free of particulate filler) and the silicone-coated microporous film of Antoon (that corresponds to the claimed intermediate microporous layer) are both oxygen-permeable layers. Antoon states that the film that is "highly permeable to water vapor" (such as silicone-coated microporous film, col. 3, lines 14-17) is "substantially impermeable" to oxygen (col. 2, lines 20-25), so the microporous film of Antoon (that corresponds to the claimed intermediate microporous layer) is permeable, to some degree, to both water vapor and oxygen, as the microporous film of Forte is permeable, to some degree, to both water vapor and oxygen. Neither Applicant's claims, nor Forte, require any particular threshold permeability to oxygen of the intermediate microporous layer, so a layer that has any degree of permeability to oxygen (such as the silicone-coated microporous film of Antoon), meets the limitation of the independent claims that the intermediate microporous layer is oxygen-permeable. Examiner notes that the recitation "formed from an oxygen impermeable composition" does not require that the intermediate microporous *layer* is oxygen impermeable, but only that the material from which the intermediate microporous layer is formed is oxygen impermeable (claims 1 and 14 recite that the intermediate microporous layer is "oxygen-permeable"). The discussion above also applies to the two intermediate microporous layers that are recited in claim 10.

As an additional preliminary matter, in response to Appellant's characterization of the position of the Office as to what Forte fails to teach in the second paragraph of page 6 of the Brief, Examiner notes that the rejection of record does not state that Forte fails to teach that the B layer of Forte is oxygen-permeable. This statement has been made to clarify Appellant's characterization in the second paragraph of page 6 of the Brief, which could be interpreted as

stating that the position of the Office is that Forte fails to teach that the B layer of Forte is oxygen-permeable. The intermediate microporous layer of Forte is oxygen-permeable because this layer is a layer of the oxygen-permeable multilayer film of Forte (col. 1, lines 9-27 and col. 3, lines 24-47).

The rejection of record essentially proposes replacing the filled intermediate microporous layer of Forte with a silicone-coated microporous film such as the silicone-coated microporous film of Antoon, Jr. that is free of particulate filler since silicone-coated microporous film that is free of particulate filler is well known to be a suitable water vapor permeable microporous film as taught by Antoon, Jr. Since Forte and Antoon both disclose the same materials (polyethylene, polypropylene, copolymers of ethylene, copolymers of propylene, etc.) and classes of materials (for example, alpha-olefin copolymers) as suitable materials for the microporous layer (col. 5, lines 10-24 of Forte and col. 3, line 57-col. 4, line 7 of Antoon), the microporous films of Forte and Antoon are clearly well known equivalents for use as films that are permeable, to some degree, to both water vapor and oxygen.

In response to Appellant's argument on pages 5-6 of the Brief that one of ordinary skill in the art would not have been motivated to combine the references, one of ordinary skill in the art would have been motivated to replace the water vapor permeable silicone-coated microporous film of Antoon with the water vapor permeable microporous layer of Forte since the microporous films of both patents have some degree of permeability to both water vapor and oxygen. The teaching of Antoon that the film that is "highly permeable to water vapor" (such as silicone-coated microporous film, col. 3, lines 14-17) is "substantially impermeable" to oxygen (col. 2, lines 20-25) would not discourage one of ordinary skill in the art from modifying the film of

Forte based on the teachings of Antoon in the manner proposed in the rejection of record because Forte and Antoon both teach that the microporous films of both patents have some degree of permeability to both water vapor and oxygen. Neither Appellant's claims, nor Forte, require any particular threshold permeability to oxygen of the intermediate microporous layer, so a layer that has any degree of permeability to oxygen (such as the silicone-coated microporous film of Antoon), meets the limitation of the independent claims that the intermediate microporous layer is oxygen-permeable.

Appellant's argument that "breathability to water vapor and oxygen is a key objective [of Forte]" (third paragraph of page 6 of Brief) is moot because the rejection of record shows that the Office agrees that a film having "breathability to water vapor and oxygen" falls within the scope of the teachings of Forte. As discussed in the previous literal paragraph, one of ordinary skill in the art would have been motivated to replace the water vapor permeable silicone-coated microporous film of Antoon with the water vapor permeable microporous layer of Forte since the microporous films of both patents have some degree of permeability to both water vapor and oxygen.

Appellant's argument on page 6-10 of the Brief that, even if combined, the patents do not teach all limitations of the claimed invention is based on Appellant's position that "there is not the slightest suggestion in Antoon, Jr. of any oxygen-permeable microporous film that is free of particulate filler". However, the phrase "can be used" (col. 4, line 18) is a clear suggestion (and teaching) that particulate filler is not required in the silicone-coated microporous film, and consequently, a teaching of embodiments where the microporous film does not comprise particulate filler.

In response to Appellant's argument in the paragraph bridging pages 7 and 8 of the Brief, Antoon does not state that the silicone-coated microporous film is oxygen impermeable: Antoon states that the film that is "highly permeable to water vapor" (such as silicone-coated microporous film, col. 3, lines 14-17) is "substantially impermeable" to oxygen (col. 2, lines 20-25), so the microporous film of Antoon (that corresponds to the claimed intermediate microporous layer) is permeable, to some degree, to both water vapor and oxygen.

In response to Appellant's argument in the first full paragraph of page 8 of the Brief, while the relevance of Appellant's argument here cannot be ascertained (and is not explained), the phrase "can be used" (col. 4, line 18) is a clear suggestion (and teaching) that particulate filler is not required in the silicone-coated microporous film, and consequently, a teaching of embodiments where the microporous film does not comprise particulate filler.

In response to Appellant's argument in the last full paragraph of page 8 of the Brief, the claimed outer layers are taught by Forte for the reasons of record. See rejection of record.

In response to Appellant's arguments on pages 9 and 10 of the Brief regarding the claimed relative amount of the claimed "primary polymer", the Exxon 357C80 that is identified in the rejection of record corresponds to the claimed "primary polymer". Since Appellant's arguments do not address the Exxon 357C80 that is relied upon in the rejection of record, the relevance of Appellant's argument here cannot be ascertained (and is not explained). The rejection of record explains how the limitation regarding the relative amount of the claimed "primary polymer" is met by Forte. See rejection of record. The relevance of Appellant's discussion of LLDPE to the rejection of the independent claims cannot be ascertained (and is not explained). See rejection of record.

In response to Appellant's argument on page 10 of the Brief regarding the rejection of claim 10, the references of record teach the film claimed in claim 10 for the reasons of record. See rejection of record. Appellant's arguments regarding the rejection of independent claim 10 depend upon Appellant's arguments regarding the rejection of independent claims 1 and 14, which have been addressed above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Walter B Aughenbaugh /
Patent Examiner, Art Unit 1794
February 26, 2008

Conferees:

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